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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
HIROKAZU YOSHIMURA : EXAMINER: AGGARWAL, Y. K.
SERIAL NO: 10/562,661 :
FILED: OCTOBER 11, 2006 : GROUP ART UNIT: 2622
FOR: APPARATUS AND METHOD FOR :
INTERMEDIATE IMAGE FORMATION
OF INFORMATION PROPAGATING AS
WAVE MOTION PASSING THROUGH
OPEN HOLE AND FOR IMAGE PICK-UP

RESPONSE TO ELECTION REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election Requirement dated October 7, 2009, Applicant provisionally elects Species 1, drawn to the features of Applicant's Figure 2 for further prosecution, in case generic independent Claims 40 and 48 would not be held allowable. The claims reading upon Figure 2 and that are included in Species 1 are dependent Claims 46-47, and 50-52. Moreover, Applicant notes that Claims 41-45 and 49 depend from independent Claims 40 and 48, respectively, and that in case Claims 40 and/or 48 would be held allowable and do not conflict with features of Claims 41-45 and 49, Applicant requests rejoinder of Claims 41-45 and 49.

Applicant also makes this provisional election based on the understanding that Applicant is not prejudiced against filing one or more divisional applications that cover the non-elected claims, which shall be subject to the third sentence of 35 U.S.C. § 121.¹

¹ "A patent issuing on an application with respect to which a requirement for restriction under this section has been made ... shall not be used as a reference ... against a divisional application." See also M.P.E.P. § 804.01.

Accordingly, it is respectfully requested that all Claims 40-52 be examined on the merits, and an early and favorable action be provided.

Respectfully submitted,

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